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DYKAS, SHAVER & NIPPER, LLP P.O. BOX 877 BOISE, ID 83701-0877			THEIN, MARIA TERESA T	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,957

Applicant(s)

HAMMONS ET AL.

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 13, 2006 has been entered.

Response to Amendment

Applicants' "Request for Continued Examination" filed on September 13, 2006 has been considered.

Applicants' response by virtue of amendment to claim 19 has overcome the Examiner rejection under 35 USC 112, second paragraph.

Claims 1, 12, 14, 16, and 18-19 are amended. Claims 1-19 remain pending in this application and an action on the merits follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "wherein said step of transmitting transaction requests includes....placing items for sale in an auction and making offers to

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sell to a third party” , specifically, the recitation “placing items for sale in an auction and making offers to sell to a third party”. How does this recitation have anything to do with the context of the invention? How is “placing items for sale and making offers to sell to a third party” having anything to do with matching and selecting product offers and information and delivering matched product offers and information?

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 recites the limitation "said merchant supplied selection criteria for a product" in line 18. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 recites the limitation "gathering information regarding products offers.....including buyer information from a merchant including demographic profiles of potential purchasers of a particular product" is unclear. Is the buyer the same as the purchasers?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 8-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,609,106 to Robertson in view of U.S. Patent No. 7,013,292 to Hsu et al.

Regarding claims 1 and 8-9, Robertson discloses a method for providing specific product information and offers for sale to the system user, the method comprising the steps of: gathering product information regarding a variety of products offers and information (col. 2, lines 14-25; col. 10, lines 39-41); organizing the product offers and information based upon predetermined criteria (col. 9, lines 34-37; col. 10, lines 51-53); saving the organized product offers and information in a database (col. 12, lines 26-37); gathering system user profile information from the system user including user demographic information, interests and preferences (col. 13, lines 63-65; col. 20, lines 10-16; Figure 16); organizing the system user profile information, according to predetermined criteria (col. 20, line 65 – col. 21, line 13); saving the organized system user profile information (col. 20, line 65 – col. 21, line 13); matching the organized product offers and information to the organized system user profile information according to a designated criteria (col. 18, lines 34-55); selecting matched product offers and information to be transmitted to the display device based upon desired criteria with said product offers corresponding to user or gist recipients interests and preferences (Figure 33, col. 18, lines 51-60; col. 23, lines 10-18); delivering the matched product offers and information to the system user through the display devices (Figure 33); storing the matched product offers and information on the display device (col. 19, lines 5-11; col. 23, lines 57-65); displaying the delivered matched product offers and

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information on the display device (Figure 33; Figure 36); and transmitting transaction request from the system user (Figures 37).

However, Robertson does not explicitly disclose the gathering user profile information includes user gift recipient's demographic information, interest and preferences. Furthermore, Robertson does not explicitly disclose gathering the gift-giving information from the system user about the system user's gift-giving recipients and the gift giving information includes gift receiving recipient and an event for which the gift is to be selected. Robertson discloses a "Choose a Gift for Someone" link (Robertson, Figure 15) and a Reminders (340) link (Robertson, Figure 21). When the user chooses the "Choose a Gift for Someone" link, a Gift Recipient Selection Page is displayed to the user (Robertson, col. 22, lines 59-61). Furthermore, Robertson discloses collecting information about the user such as personal taste (col. 20, lines 12-15). Robertson further discloses a gift purchasing process, wherein the gift purchaser either locates the desired gift registrant that they desire to purchase a gift for or locates the desired registered occasion (col. 15, lines 50-53).

Hsu, on the other hand, teaches disclose the gathering user profile information includes user gift recipient's demographic information, interest and preferences (col. 9, lines 40-44); and gathering the gift-giving information from the system user about the system user's gift-giving recipients and the gift giving information includes gift receiving recipient and an event for which the gift is to be selected (col. 11, lines 27-20; Figure 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the gathering of

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user profile information includes user gift recipient's demographic information, interest and preferences and gathering the gift-giving information from the system user about the system user's gift-giving recipients and the gift giving information includes gift receiving recipient and the event for which the gift is to be selected, as taught by Hsu, in order to reduce the incidence of duplicate gifts (Hsu, col. 3, lines 21-22), thus to reduce or eliminate the cost of gift returns (Hsu, col. 3, line 29).

Regarding claim 5, Robertson discloses the product offers and information are displayed immediately (Figure 33; Figure 36).

Regarding claim 13, Robertson discloses the displayed offers can be accessed either from said display device or from a designated website (Figure 33; Figure 36).

Claims 2, 4, 6-7, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,609,106 to Robertson and U.S. Patent No. 7,013,292 to Hsu et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,991,771 to Falls.

The combination of Robertson and Hsu substantially discloses the claimed invention, however, the combination does not disclose the display device being connected and not being connected to the network; product offers and information are reserved for later display when the display device is no longer attached to the network; and to store the transaction and automatically connect to said network at a later time. However, the combination discloses storing various account informations with respects to the users (Robertson, col. 12, lines 58-60).

Falls, on the other hand, teaches the display device being connected and not being connected to the network; later display when the display device is no longer attached to the network; and to store the transaction and automatically connect to said network at a later time (col. 3, line 66 – col. 4, line 15; col. 1, lines 11-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the display device being connected and not being connected to the network; later display when the display device is no longer attached to the network; and to store the transaction and automatically connect to said network at a later time, as taught by Falls, in order to provide consistent file locations regardless of whether the computer is connected to the network (col. 3, lines 9-11).

Claim 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,609,106 to Robertson and U.S. Patent No. 7,013,292 to Hsu et al. as applied to claim 1 above, and further in view of U. S. Patent No. 6,202,051 to Woolston. The combination of Robertson and Hsu substantially discloses the claimed invention, specifically, the placing bids in an electronic auction (Hsu, col. 17, lines 4-11; col. 17, lines 41-48; col. 18, lines 50-51; col. 23, lines 17-34). However, the combination does not explicitly disclose placing items for sale in an auction, and making offers to sell to a third party. The combination discloses ordering a product (Robertson, col. 24, lines 9-11).

Woolston, on the other hand, teaches placing items for sale in an auction (Figure 3), and making offers to sell to a third party (Figure 7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include placing items for sale in an auction, and making offers to sell to a third party, as taught by Woolston, in order to market goods so that participants can speculate on the price of the goods (Woolston, col. 1, lines 30-32) and to provide resale of goods purchased (Woolston, col. 1, lines 62-63).

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,609,106 to Robertson and U.S. Patent No. 7,013,292 to Hsu et al. as applied to claim 8 above and in further view of U.S. Patent No. 5,991,771 to Falls. The combination of Robertson and Hsu substantially discloses the claimed invention, however, the combination does not disclose the system user is able to initiate a transaction when the device is not connected to the network; and to store the transaction and automatically connect to said network at a later time. The combination discloses storing various account information with respects to the users (Robertson, col. 12, lines 58-60).

Falls, on the other hand, teaches the system user is able to initiate a transaction when the device is not connected to the network; and to store the transaction and automatically connect to said network at a later time (col. 3, line 66 – col. 4, line 15; col. 1, lines 11-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the system user is

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able to initiate a transaction when the device is not connected to the network; and to store the transaction and automatically connect to said network at a later time, as taught by Falls, in order to provide consistent file locations regardless of whether the computer is connected to the network (col. 3, lines 9-11).

Claim 14 –18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,609,106 to Robertson in view of U.S. Patent No. 5,983,200 to Slotznick and in further view of U.S. Patent No. 5,991,771 to Falls.

Regarding claims 14-18, Robertson discloses a method for providing specific product information and offers for sale to the system user, the method comprising the steps of: gathering product information regarding a variety of products offers and information (col. 2, lines 14-25; col. 10, lines 39-41); organizing the product offers and information based upon predetermined criteria (col. 9, lines 34-37; col. 10, lines 51-53); saving the organized product offers and information in a database (col. 12, lines 26-37); gathering system user profile information from the system user (col. 20, lines 10-16; Figure 16); saving the organized system user profile information (col. 20, line 65 – col. 21, line 13); organizing the system user profile information according to selected criteria based upon the user (col. 20, line 65 – col. 21, line 13); saving the system user profile information (col. 20, line 65 – col. 21, line 13); organizing the system user profile information, and gift-giving information according to predetermined criteria (col. 20, line 65 – col. 21, line 13); matching the product offers and information to the system user profile information and to the gift giving information and profiles based upon selected criteria (col. 18, lines 34-55); selecting product offers and information to be transmitted

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to the display device based upon matched product results and selected criteria (Figure 33, col. 18, lines 51-60); delivering program matched product offers and information to the system user through the display devices (Figure 33); storing the program matched product offers and information on the display device (col. 19, lines 5-11; col. 23, lines 57-65); receiving offers and information as selected by the shopper and storing the selected offers and information (Figure 33; Figure 36); displaying on the display device the selected offers and information, and the matched product offers and information upon request by the system user (Figure 33; Figure 36); and providing opportunities for interactive purchasing and communication through the display devices (Figure 33; Figure 36; Figure 37).

However, Robertson does not explicitly disclose the gift-giving information and profiles regarding future gift recipients from the system user, gift recipient's interests and attributes, a specified list of gift giving events for each gift recipient; and initiating specific processes from the display. Robertson discloses a "Choose a Gift for Someone" link (Figure 15) and a Reminders (340) link (Figure 21). When the user chooses the "Choose a Gift for Someone" link, a Gift Recipient Selection Page is displayed to the user (col. 22, lines 59-61).

Slotznick, on the other hand, teaches the gift-giving information and profiles regarding future gift recipients from the system user, gift recipient's interests and attributes, a specified list of gift giving events for each gift recipient; and initiating specific processes from the display (col. 12, lines 56-67; col. 15, lines 7-16; col. 16, lines 52-61; col. 18, lines 36-58).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Robertson, to include the gift-giving information and profiles regarding future gift recipients from the system user, gift recipient's interests and attributes, a specified list of gift giving events for each gift recipient; and initiating specific processes from the display, as taught by Slotznick, in order to provide a proper and appropriate gift (Slotznick, col. 14, lines 39-40) and to provide an interactive screen (Slotznick, col. 15, lines 41).

Robertson does not explicitly disclose the storing the displayed offers and information for later on-demand access; the displayed offers can be accessed from a location other than the display device; and the displayed device is not connected to the network and the device is able to store a transaction, purchase, and process for transmission until a connection between the display and the network becomes available. Robertson discloses storing various account information with respects to the users (col. 12, lines 58-60).

Falls, on the other hand, teaches the storing the displayed offers and information for later on-demand access; the display can be accessed from a location other than the display device; and the displayed device is not connected to the network and the device is able to store a transaction, purchase, and process for transmission until a connection between the display and the network becomes available (col. 3, line 66 – col. 4, line 15; col. 1, lines 11-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Robertson, to include the

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storing the displayed offers and information for later on-demand access; the display can be accessed from a location other than the display device; and the displayed device is not connected to the network and the device is able to store a transaction, purchase, and process for transmission until a connection between the display and the network becomes available, as taught by Falls, in order to provide consistent file locations regardless of whether the computer is connected to the network (Falls, col. 3, lines 9-11).

Claim 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,609,106 to Robertson in view of the article "Reminder/Gifted Solutions Announces Merchants and Portal Partners Using Its New Gift Services Engine at Internet Commerce Expo this Week" (Reminder/Gifted) in further view of U.S. Patent No. 5,991,771 to Falls and in further view of U. S. Patent No. 6,202,051 to Woolston.

Regarding claim 19, Robertson discloses the method comprising the steps of: gathering information regarding product offers and information from a variety of sources (col. 2, lines 14-25; col. 10, lines 39-41); organizing the information regarding product offers and information based upon a predetermined criteria (col. 9, lines 34-37; col. 10, lines 51-53); saving the organized information regarding product offers and information (col. 12, lines 26-37); gathering system user profile information from the system user by any one of a combination of methods selected from the group consisting of: direct submission from the system users through answers on a profile, monitoring customer interaction with a provided software program (Figure 21); organizing the system user

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profile information (col. 20, line 65 – col. 21, line 13); saving the system user profile information (col. 20, lines 65- col. 21, lines 13); organizing the system user profile information, and the gift-giving information according to predetermined criteria (col. 20, line 65- col. 21, line 13); matching the product offers and information to the system user profile information and to the gift recipient profiles (col. 18, lines 34-55); organizing the matched product offers and information (col. 19, lines 5-11; col. 23, lines 57-65); delivering the matched product offers and information to said system users via said network (Figure 33); storing the matched product offers and information (col. 19, lines 5-11; col. 23, lines 57-65); and transmitting transaction requests from the user wherein the transaction requests making offers to purchase from a seller (Figure 33; Figure 36; Figure 37).

However, Robertson does not explicitly disclose the gathering system user gift-recipient profiles and a specified list of gift giving events for each gift recipient; and the information including buyer information from a merchant regarding likely profiles of purchasers of a particular product; and merchant supplied selection criteria for a product. Robertson discloses a "Choose a Gift for Someone" link (Figure 15) and a Reminders (340) link (Figure 21). When the user chooses the "Choose a Gift for Someone" link, a Gift Recipient Selection Page is displayed to the user (col. 22, lines 59-61).

The article Reminder/Gifted, on the other hand, teaches disclose the gathering system user gift-recipient profiles and a specified list of gift giving events for each gift recipient; and the information including buyer information from a merchant regarding

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likely profiles of purchasers of a particular product; and merchant supplied selection criteria for a product (whole article).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Robertson, to include the gathering system user gift-recipient profiles and a specified list of gift giving events for each gift recipient; and the information including buyer information form a merchant regarding likely profiles of purchasers of a particular product; and merchant supplied selection criteria for a product, as taught by the article, in order to assist the user in picking the perfect gift (the article, whole article).

Robertson does not explicitly disclose displaying the matched product offers and information after disconnecting the personal computer from said network and transaction requests being stored within the display device until the display device is connected to the network, whereupon the transaction requests are transmitted to the information system computer. Robertson discloses storing various account informations with respects to the users (col. 12, lines 58-60).

Falls, on the other hand, teaches displaying information after disconnecting the personal computer from said network and transaction requests being stored within the display device until the display device is connected to the network, whereupon the transaction requests are transmitted to the information system computer (col. 3, line 66 – col. 4, line 15; col. 1, liens 11-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Robertson, to include displaying

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information after disconnecting the personal computer from said network and transaction requests being stored within the display device until the display device is connected to the network, whereupon the transaction requests are transmitted to the information system computer, as taught by Falls, in order to provide consistent file locations regardless of whether the computer is connected to the network (col. 3, lines 9-11).

However, Robertson does not explicitly disclose placing bids in an electronic auction, placing items for sale in an auction, and making offers to sell to a third party. Robertson discloses ordering a product (col. 24, lines 9-11).

Woolston, on the other hand, teaches placing bids in an electronic auction (Figures 5-6), and placing items for sale in an auction (Figure 3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Robertson, to include placing bids in an electronic auction, placing items for sale in an auction, and making offers to sell to a third party, as taught by Woolston, in order to market goods so that participants can speculate on the price of the goods (Woolston, col. 1, lines 30-32) and to provide resale of goods purchased (Woolston, col. 1, lines 62-63).

Response to Arguments

Applicant's arguments with respect to claims 1-13 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 14-18 filed on September 13, 2006 have been fully considered but they are not persuasive.

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Applicant remarks that there is "there is no motivation whatsoever provided by Robertson, Slotznick and/or falls to provide a system like that of the present invention" and "there is no suggestion to combine Falls, et al, with Robertson or Slotznick".

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Robertson was cited for disclosing a method for providing specific product information and offers for sale to the system user, the method comprising the steps of: gathering product information regarding a variety of products offers and information (col. 2, lines 14-25; col. 10, lines 39-41); organizing the product offers and information based upon predetermined criteria (col. 9, lines 34-37; col. 10, lines 51-53); saving the organized product offers and information in a database (col. 12, lines 26-37); gathering system user profile information from the system user (col. 20, lines 10-16; Figure 16); saving the organized system user profile information (col. 20, line 65 – col. 21, line 13); organizing the system user profile information according to selected criteria based upon the user (col. 20, line 65 – col. 21, line 13); saving the system user profile information (col. 20, line 65 – col. 21, line 13); organizing the system user profile information, and gift-giving information according to predetermined criteria (col. 20, line

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65 – col. 21, line 13); matching the product offers and information to the system user profile information and to the gift giving information and profiles based upon selected criteria (col. 18, lines 34-55); selecting product offers and information to be transmitted to the display device based upon matched product results and selected criteria (Figure 33, col. 18, lines 51-60); delivering program matched product offers and information to the system user through the display devices (Figure 33); storing the program matched product offers and information on the display device (col. 19, lines 5-11; col. 23, lines 57-65); receiving offers and information as selected by the shopper and storing the selected offers and information (Figure 33; Figure 36); displaying on the display device the selected offers and information, and the matched product offers and information upon request by the system user (Figure 33; Figure 36); and providing opportunities for interactive purchasing and communication through the display devices (Figure 33; Figure 36; Figure 37).

The Examiner then turns to Slotznick to teach the gift-giving information and profiles regarding future gift recipients from the system user, gift recipient's interests and attributes, a specified list of gift giving events for each gift recipient; and initiating specific processes from the display. Slotznick teaches an intelligent agent which executes tasks by using intelligent agent learning modules that store information necessary to execute the task (abstract). For example, the intelligent agent can learn user's preference for gift items (col. 4, lines 6-7). The task includes purchasing, ordering, creating, altering, personalizing, dispensing or distributing a product or service of value, whether tangible, or intangible (col. 12, lines 56-59). Slotznick teaches an

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apparatus for dispensing products or ordering products and services (col. 15, lines 7-9). and an "expert system" which enables a device to simulate the knowledge base or problem solving abilities of a human expert in a particular field or fields (col. 14, lines 14-17). The particular field or context includes gift giving (col. 14, lines 38-40). Figure 5 shows a flow diagram of a method where the user may chose to send some other gift item (col. 18, lines 9-11) and further show a method used to access the product and service database and crate a database of learned data and relationships in the process of ordering products and services (col. 8, lines 65 – col. 9, line1).

The motivation to combine Robertson and Slotznick is found in col. 14, lines 39-40 and Slotznick col. 15, line 41, which is to provide a proper and appropriate gift and to provide an interactive screen.

Examiner then turns to Falls to teach the storing the displayed offers and information for later on-demand access; the displayed offers can be accessed from a location other than the display device; and the displayed device is not connected to the network and the device is able to store a transaction, purchase, and process for transmission until a connection between the display and the network becomes available. Falls teaches the synchronization of transaction performed on separated disconnectable computers such as transaction performed on a mobile computer and on a computer network while the mobile computer and the network are disconnected, or transaction preformed on separate server computers in a network (col. 1, lines 10-15).

The motivation to combine Robertson and Slotznick and Falls is found in col. 3, lines 9-11 which is to provide consistent file locations regardless of whether the computer is connected to the network.

Applicant remark "to draw on hindsight knowledge of the patented invention, when the prior art does not contain or suggest that knowledge is to use the invention as a template for its own reconstruction – an illogical and inappropriate process by which to determine patentability".

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Mtot
December 11, 2006

Michael Cuff 12/11/06

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